

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-10 are pending in the application, with 1 and 6 being the independent claims. Claims 1 and 6 have been amended. These changes are believed to introduce no new matter that would require further search and/or consideration, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

**Rejections Under 35 U.S.C. § 103**

Claims 1 and 3-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US Patent No. 4,328,577) in view of Sebaa et al. (WESCON/94. 'Idea/Microelectronics' Conference. Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. in view of Sebaa et al. as applied to claim 1 above, and further in view of Mann et al. (US Patent Application Publication 2001/0013104). Claims 6 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aagaard et al. (US Patent No 3,928,730) in view of Abbott et al. Finally, claims 8 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aagaard et al. in view of Abbott et al. as applied to claims 6 and 7 above, and further in view of Sebaa et al. Reconsideration of claims 1-9 is respectfully requested.

To establish a *prima facie* case of obviousness, all of the claimed features must be taught or suggested by the references and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to

one of ordinary skill in the art, to modify the reference or to combine reference teachings, MPEP Section 2142.

Applicants respectfully submit that the various combined teachings of Abbott, Sebaa, Mann, and Aagaard fail to teach or suggest the claimed invention. In particular, the primary reference of Abbott teaches a monitoring mechanism that is different from that claimed in the present invention. The combination of references fails to teach or suggest an apparatus comprising, *inter alia*, a switching device that includes a separate testing output port selectably configurable to couple to only one of the data-paths, and which permits monitoring of data based only on the data received through the one connected data path at the testing output port, as recited in claim 1. Similar features are also recited in claim 6. These features are illustrated, for example, in FIG. 2 of Applicants' application.

The Office Action indicates that Abbott in view of Sebaa teaches a monitor, and a video data path monitoring mechanism which makes claim 1 unpatentable under 35 U.S.C. 103(a). Applicants, however, respectfully disagree. For example, Abbott describes a monitor that requires at least two inputs: the original data stream before being sent through the switching device, and the original data stream after being through the switching device (See Abbott col. 3, lines 59-62 and Fig. 1). Thus, the monitor in Abbott *et. al.* is based on the comparison of two data streams. In contrast, the monitoring capability claimed by the Applicants is based on a single data stream.

Therefore, assuming *arguendo*, that one would be motivated to combine these references in the manner suggested by the Office Action, the present invention would not be obvious in view of such combinations. The suggested combinations would not result in the presently claimed invention reciting an apparatus comprising a switching device

that includes a testing output port selectably configurable to couple to only one of the data-paths, and performing the monitoring function based on the one data stream input to the testing output port.

The Office Action rejects claim 6 under 35 U.S.C. 103(a) based on Aagaard *et. al.* in view of Abbott *et. al.* As the Applicants argued above with respect to claim 1, Abbott *et. al.* teaches a monitoring mechanism that requires at least two inputs: the original data stream before being sent through the switching device, and the original data stream after being through the switching device. Claim 6 recites that data is received at the testing output port through only one data path (*i.e.*, one input). Therefore, the combination suggested in the Office Action would not result in the present invention, as recited in claim 6.

In view of the above arguments, it is clear that claims 1 and 6 (the independent claims) would not have been rendered obvious by the suggested combinations to one of ordinary skill in the art at the time of the invention. Therefore, claims 1 and 6 are allowable under 35 U.S.C. § 103 as being patentable over Abbott, Sebaa, Mann, and Aagaard, either alone or in combination with one another.

Claims 2-5 depend from claim 1 and claims 7-9 depend from claim 6. Therefore, claims 2-5 and 7-9 are allowable at least for the reasons claims 1 and 6 are allowable, and for the specific features recited therein.

Reconsideration and withdrawal of the rejections of claims 1-9 is requested.

**Allowable Subject Matter**

The Office Action indicated that claim 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants, however, choose not to rewrite claim 10 at this time.

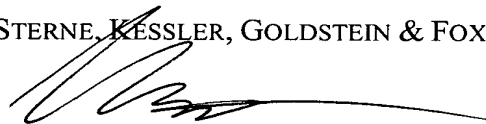
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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